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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/941,248

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Mark Joseph Hamzy

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EXAMINER

BEKERMANN, MICHAEL

ART UNIT

PAPER NUMBER

3622

DATE MAILED: 07/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/941,248

Applicant(s)

HAMZY ET AL.

Examiner

Michael Bekerman

Art Unit

3622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This action is responsive to papers filed on 5/16/2006

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. **Claims 1-3, 8, 12-14, 19, 23-25, and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Blumenau (U.S. Patent No. 6,108,637).** Blumenau teaches a content display monitor that monitors display of advertisements and includes all of the limitations of the above claims.

Regarding claims 1, 2, 12, 13, 23, and 24, Blumenau teaches a system and method of displaying an advertisement (Column 21, Lines 35-38) (inherently stored in memory) during a display period (Column 7, Lines 58-59) and confirming the display of the advertisement on the display location (Column 7, Lines 4-19). Blumenau also teaches a time stamp being recorded each time the hidden state of the advertisement changes (Column 15, Lines 64-66). This is taken to read on repetition of confirming steps.

Regarding claims 3, 14, and 25, Blumenau teaches the charging of advertisers according to the amount of exposure of the advertisement (Column 1, Lines 35-40, and Column 21, Lines 40-44).

Regarding claims 8, 19, and 30, Blumenau teaches confirming and recording the determination that the advertisement is partially displayed (Column 15, Lines 64-67, and Column 16, Lines 1-4).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 4-7, 15-18, and 26-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blumenau (U.S. Patent No. 6,108,637) in view of Chang (U.S. Patent No. 6,342,893).

Regarding claims 4, 6, 15, 17, 26, and 28, Blumenau teaches monitoring of advertisements, but doesn't specify intercepting a call from a Bitblt routine. Chang teaches that it is old and well-known to use Bitblt to transmit image data system memory and display memory (Column 1, Lines 23-26). Chang also teaches the intercepting of a call to a Bitblt routine, the retrieving of an image for display, and the comparing of the retrieved image to the image on the display (Column 1, Lines 44-63). It would have been obvious to one having ordinary skill in the art at the time the

invention was made to monitor the advertisements of Blumenau by using the technique of Chang. This would not only ensure the advertisement is displayed, but that the information in the advertisement has not been altered and is fully intact.

Regarding claims 5, 7, 16, 18, 27, and 29, Blumenau teaches only a portion of the advertisement as being evaluated as being hidden or unobstructed (Column 14, Lines 51-58).

3. Claims 9-11, 20-22, and 31-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blumenau (U.S. Patent No. 6,108,637) in view of Meyers (U.S. Pub No. 2002/0087403).

Regarding claims 9, 20, and 31, Blumenau doesn't specify altering the price for displaying an advertisement based on portion of the advertisement displayed. Meyers teaches charging an advertiser for a portion of the advertisement displayed, specifically by number of pixels unhidden (Paragraph 0039). It would have been obvious to one having ordinary skill in the art at the time the invention was made to charge advertisers in Blumenau's system according to how much of the advertisement is shown. This way, the system doesn't lose revenue due to half the advertisement being blocked, and revenue can still be earned based on the portion shown.

Regarding claims 10, 11, 21, 22, 32, and 33, Blumenau teaches monitoring portions of advertisements (Examiner considers these portions to be signatures), but doesn't specify monitoring of advertisements by mapping pixels. Meyers teaches each pixel as having payload data and metadata. The metering process and the association

between payload data and metadata is described in Paragraphs 0015 and 0016 of Meyers. It would have been obvious to one having ordinary skill in the art at the time the invention was made to monitor specific portions of advertisements pixel-by-pixel. This would ensure reliability in the findings.

Response to Arguments

4. Regarding the 102(b) rejection of the above claims, applicant argues “Merely reciting the word ‘inherently’ is insufficient basis for a rejection on the theory of inherency”. Applicant further states “the examiner must provide a basis in fact and/or technical reasoning”. Blumenau teaches advertisements that are displayed on the screen of a computer. If an advertisement is displayed on a computer monitor, it must be stored in some type of memory, even if that memory is RAM. Regardless of this, Applicant has not specified in what type of computer memory the advertisement display image is stored.

5. Applicant also argues “Blumenau...makes no mention of screen display location and no mention of assigning a display location for a display period”. Applicant then states that Blumenau teaches away from the claimed invention in this regard. Examiner considers a user’s computer monitor to be a screen display location. However, Examiner would also like to point out that there is no positive step of pre-assigning a time or location. The claim recites “storing in computer memory an advertisement display image assigned for display”. The claim also makes mention that the displaying takes place at a display location (taught by Blumenau to be the user’s computer) during

a display period (advertisement is taught by Blumenau as being displayed for a period of time). There is no step of assigning a specific location or a specific time period recited in the claim language.

6. Applicant further argues "Blumenau...discloses monitoring, not confirming at a confirmation time". Examiner believes that additional confirming is taking place in Column 7, Lines 19-23, which recites "this information can be useful to...indicate the amount of time that the content display was visible". This further shows that the monitoring performed in Blumenau is the same as the claimed step of confirming. The confirmation time is simple the time at which the monitoring takes place. No pre-assigning of a confirmation time is ever claimed.

7. Applicant further argues "In fact, Blumenau does not even mention or address recording anything in computer memory". Examiner would like to reference the following sections of Blumenau (to name only a few) which contain mentions of recording and storing in computer memory:

Column 3, Lines 27-33

Column 9, Lines 1-7

Column 13, Lines 5-10

Column 15, Lines 64-66

Column 22, Lines 51-54

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Bekerman whose telephone number is (571) 272-3256. The examiner can normally be reached on Monday - Friday, 7:30 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric W. Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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JEFFREY D. CARLSON
PRIMARY EXAMINER